

Part IV - Items of General Interest

Proposed Form 1118, Foreign Tax Credit – Corporations

Announcement 2007-62

The Internal Revenue Service (IRS) announces that it is requesting comments from the public on proposed revisions to Form 1118, “Foreign Tax Credit -- Corporations.” This Form is used by U.S. corporate taxpayers to compute the foreign tax credit for certain taxes paid or accrued to foreign countries or U.S. possessions. Form 1118 is being revised as a result of amendments to section 904 of the Internal Revenue Code (Code) relating to the number of separate foreign tax credit limitation categories and the effect of overall domestic losses. Attached to this announcement is a copy of the proposed form, with respect which the IRS is requesting comments from the public. The proposed revisions have also been posted on the IRS website, at <http://www.irs.gov/taxpros/lists/0,,id=97782,00.html>.

BACKGROUND

Section 404 of the American Jobs Creation Act of 2004, Public Law 108-357, 118 Stat. 1418 (October 22, 2004) (AJCA) generally reduced the number of separate categories under section 904(d) from eight to two, effective for tax years beginning after December 31, 2006. This provision does not, however, affect the separate computation of foreign tax credit limitations under special provisions of the Code relating to, for example, treaty-based sourcing rules or specified countries under section 901(j).

Section 402(a) of the AJCA added new section 904(g), which provides for the recharacterization of U.S. source income as foreign source income in cases in which a taxpayer’s foreign tax credit limitation has been reduced in an earlier year as a result of an overall domestic loss. The new section 904(g) provides parity in the treatment of overall foreign losses and overall domestic losses in order to mitigate the double taxation of foreign source income.

PROPOSED REVISIONS TO FORM 1118

Form 1118 has generally been revised to eliminate information reporting regarding section 904(d) separate categories that have been eliminated by the AJCA.

In addition, several other revisions have been made to the Form to reflect the overall domestic loss provisions of new section 904(g). For example, a new column has been added to Schedule A to more clearly reflect deductions for NOL carryovers and several other specific revisions have been made to Schedule J.

A new column has been added to Schedule J for U.S. source income or loss. This column is intended to be helpful in determining U.S. income subject to recharacterization from the recapture of overall domestic losses and otherwise tracking the balances of overall domestic losses.

In Part I, the step for allocating current year U.S. source losses on line 10 of the current Schedule J is moved to line 5 and renamed "allocation of domestic losses." Placing this step before the recapture of overall foreign losses is a departure from the ordering rules set forth in Notice 89-3, 1989-1 I.R.B. 623. A new step has also been added to Part I on line 10 for the recapture of overall domestic losses now required under the new section 904(g). The instructions to Schedule J will clarify that the recapture amount is determined based on the U.S. income subtotal from line 6, which does not take into account the effect of any recapture of overall foreign losses.

A new Part IV has been added to Schedule J to track additions and reductions to overall domestic loss account balances that are needed in applying the provisions of new section 904(g).

REQUEST FOR PUBLIC COMMENT

The IRS requests comments on the proposed revisions to the current Form 1118. The IRS is particularly interested in receiving comments on the ordering rules as reflected on the proposed Schedule J. Such comments will be useful in the drafting of proposed regulations under section 904(f) and (g), which will include detailed ordering rules as well as other guidance under these provisions.

Written comments should be sent to: Tax Products Coordinating Committee, Internal Revenue Service, SE:W:CAR:MP:T, Room 6406, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Alternatively, comments may be e-mailed to tfpmail@publish.no.irs.gov. Comments must be received by September 10, 2007.

The principal author of this announcement is Jeffrey L. Parry of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this announcement contact Jeffrey L. Parry at (202) 622-3850 (not a toll-free call).